

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 197 – HB 274

March 12, 2018

SUMMARY OF ORIGINAL BILL: Authorizes an inmate's release eligibility after 15 or 20 years served, depending on whether or not the victim died as a result of the offense, if the inmate was less than 18 years old at the time of the offense but sentenced as an adult.

FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Expenditures – \$4,393,300/Incarceration*

SUMMARY OF AMENDMENTS (013640, 014332): Amendment 013640 deletes and rewrites the proposed legislation to provide release eligibility to a person sentenced to imprisonment for life for first or second degree murder after 30 calendar years if the person committed the offense when he or she was less than 18 years of age. Provides that any other offense sentenced to run consecutively or concurrently to the first or second degree murder sentence shall not operate to extend the release eligibility beyond 30 calendar years. Applies to persons serving a sentence of imprisonment for life without the possibility of parole. Applies retroactively to anyone serving a sentence of imprisonment for life or imprisonment for life without the possibility of parole.

Amendment 014332 deletes and rewrites subdivision (v)(3) of Section 1 to remove retroactive application of the proposed legislation. Deletes and rewrites the effective clause to clarify that the proposed legislation only applies to offenses committed after July 1, 2018.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – A decrease of state incarceration costs will not be realized until FY50-51 at the earliest. Based on the current methodology used by the Fiscal Review Committee staff to determine incarceration costs, the decrease in incarceration is estimated to be at least \$2,959,700.

Assumptions for the bill as amended:

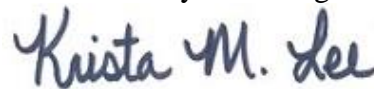
- Statistics from the Department of Correction (DOC) show an average of 4.8 minors per year over the last 10 years have been received into DOC custody.

- It is assumed that the proposed legislation will result in five inmates per year being released early under the proposed legislation.
- Public Chapter 492 of the Acts of 1995 (PC492) added a subsection to Tenn. Code Ann. § 40-35-501 that enumerated certain offenses for which anyone sentenced for those offenses after July 1, 1995 must serve 100 percent of the sentence received minus any sentencing credits up to 15 percent of the sentence received. The enumerated list includes first degree murder, for which one can be sentenced to life with the possibility of parole.
- A sentence of life with the possibility of parole is a 60-year sentence.
- PC492 requires one convicted of first degree murder to serve at least 51 years, or 85 percent of the sentence, before becoming eligible for release.
- Under the proposed legislation, an inmate could become release eligible after 30 years. It is assumed that each offender will not be released immediately after 30 years. It is assumed that each offender will be released after 32 years served. The proposed legislation applies to offenses committed on or after July 1, 2018. Thus, the earliest one could be released under the proposed legislation is FY50-51 (July 1, 2018 + 32 years = July 1, 2050).
- It is assumed that the proposed legislation will result in five inmates per year being released 19 years (51 years – 32 years), or 6,939.75 days, earlier than under current law.
- According to the DOC, the average operating cost per offender per day for calendar year 2018 is \$71.08.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one (4.8 x .1178) additional admission for a total of six (5 + 1).
- The proposed legislation will decrease state incarceration costs by \$2,959,665 (6 inmates x 6,939.75 days x \$71.08) beginning in FY50-51.
- The proposed legislation does not create any new cases or impact sentencing of cases, but rather alters the release eligibility date for some current and future inmates.
- It is assumed that the court, public defenders, and district attorneys can accommodate any impact within their existing resources.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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